



ANNE ARUNDEL COUNTY OFFICE OF LAW

Legislative Summary

To: Members, Anne Arundel County Council

From: Gregory J. Swain, County Attorney /s/

Date: March 18, 2024

Subject: Bill No. 21-24 – General Provisions – Boards, Commissions, and Similar Bodies
– Equity and Human Rights – Human Relations Commission

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of Bill No. 21-24.

Background

The County has a Human Relations Commission that is authorized to address complaints of discrimination in housing. Neighboring jurisdictions, such as Montgomery County, Baltimore County, Baltimore City, Howard County, and Prince George’s County, have long had codified civil rights protections that extend beyond housing to include the areas of non-county employment and public accommodations. Bill No. 21-24 will revise two articles of the County Code to expand the scope of anti-discrimination protections to include these other areas of protections, and revise the authority and process of the Human Relations Commission to allow the Commission to enforce these new anti-discrimination protections and address complaints of anti-discrimination.

Purpose

The purpose of Bill No. 21-24 is to provide for an enforcement mechanism for administrative subpoenas issued by the Human Relations Commission; to rename and expand the scope of anti-discrimination protections of Article 1, Title 9; to extend the anti-discrimination protections of Article 1, Title 9 beyond housing to include non-County employment and public accommodations; to revise the qualifications for members of the Human Relations Commission; to expand the powers of the Human Relations Commission to allow it to address complaints of discrimination in non-County employment and public accommodations; to define and establish the powers and duties of the Human Relations Officer; to provide for the investigations of complaints of discrimination in these areas; to update the process and procedure for resolving a complaint filed with the Human Relations Commission; and to provide for civil penalties for violations of the anti-discrimination provisions or Article 1, Title 9 consistent with the authority granted to counties under the Maryland Express Powers Act.

Note: This Legislative Summary provides a synopsis of the bill as introduced. It does not address subsequent amendments to the bill.

Bill No. 21-24

SECTION 1.

This section repeals provisions of Article 1 relating to the enforcement of administrative subpoenas and repeals the public policy and purpose sections of Article 1, Title 9 (Fair Housing) to allow for the revisions in Section 3.

SECTION 2.

This section renumbers certain provisions of Article 1, Title 9 (Fair Housing) and Article 3, Title 5A (Human Relations Commission) to allow for the revisions in Section 3.

SECTION 3.

Subsection 1-2-101(d) is revised to provide a method for enforcement of a subpoena issued by the Human Relations Commission that is consistent with State law and the Maryland Rules of Procedure.

The name of Article 1, **Title 9** is changed from “Fair Housing” to “Equity and Human Rights.”

Section 1-9-101 is revised to provide that the definitions of Article 1, Title 9 also apply in Article 3, Title 5A.

Subsection 1-9-101(1) is revised to refer to a person’s membership in or association with someone in a “protected class” (as now defined in the new § 1-9-101(5)), and to add that association with someone in a protected class is also a protected class, and that discrimination includes retaliation against someone who filed a complaint or opposed or participated in an investigation of a discriminatory practice prohibited under this Title.

Subsection 1-9-101(2) is revised to refer to a person’s membership in or association with someone in a “protected class”.

Subsection 1-9-102(3) is new and defines “gender identity or expression.”

Subsection 1-9-102(4) is renumbered from Section 1-9-102(3).

Subsection 1-9-101(5) is renumbered from Section 1-9-102(4) and is revised to add to the definition a person’s “actual or perceived” membership in a protected class.

Subsection 1-9-101(6) is new and adds a definition of “public accommodation” by reference to § 20-301 of the State Government Article of State Code¹.

¹ In this subtitle, “place of public accommodation” means:

(1) an inn, hotel, motel, or other establishment that provides lodging to transient guests;

Subsection 1-9-102(6) is repealed.

Subsection 1-9-102(7) is renumbered from Section 1-9-102(5).

Subsection 1-9-101(8) is renumbered from Section 1-9-102(7).

Subsection (8)(i)(6) is revised to add “accounts” to “bank”, correct “trust” to “trusts”, and correct “and” to “or.”

Subsection (8)(ii) is revised to add “such” before “as verification of income.”

Section 1-9-102 is new and adds an expanded statement of purpose and intent for the anti-discrimination provisions of Title 9, and provides that the filing of a complaint under a similar or identical federal or state law terminates any complaint filed for a violation of Title 9.

Section 1-9-103 is revised to provide that a violation of Title 9 shall be handled by the Human Relations Commission under the process established in Article 3, Title 5A.

Section 1-9-301 is new and prohibits discrimination by an owner or operator of a place of public accommodation, or their agent or employee.

Section 1-9-401 is new and prohibits discrimination in employment, except that a complaint of discrimination in employment of a County employee against another County employee shall be addressed under Article 6 of this Code (Personnel) and the Employee Relations Manual.

Subsection 3-5A-103(a) is revised in form and to provide that the Executive Director of Arundel Community Development Services, Inc., or their designee, who is appointed by the County Executive to the Human Relations Commission is not required to be a resident of the County.

Subsection 3-5A-103(b) is revised to provide that the Human Relations Officer shall be

(2) a restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food or alcoholic beverages for consumption on or off the premises, including a facility located on the premises of a retail establishment or gasoline station;

(3) a motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;

(4) a retail establishment that:

(i) is operated by a public or private entity; and

(ii) offers goods, services, entertainment, recreation, or transportation; or

(5) an establishment:

(i) 1. that is physically located within the premises of any other establishment covered by this subtitle; or

2. within the premises of which any other establishment covered by this subtitle is physically located;

and

(ii) that holds itself out as serving patrons of the covered establishment.

the Director of the Office of Equity and Human Rights, or their designee, and will also serve as the secretary to the Commission.

Subsection 3-5A-108(a)(1) is revised to authorize the Human Relations Commission to receive, mediate, and adjudicate complaints of discrimination that arise under Article 1, Title 9, except that a complaint of discrimination of a County employee against another County employee shall be addressed under Article 6 of this Code (Personnel) and the Employee Relations Manual.

Subsection 3-5A-108(a)(2) is revised to authorize the Commission to initiate discrimination claims in violation of Article 1, Title 9.

Subsection 3-5A-108(a)(7) is revised to authorize the Commission to conduct training and educational programs to promote positive human relations and notify the public of the remedies available under Article 3, Title 5A, Subtitle 1.

Subsection 3-5A-108(a)(9) is revised to authorize the Commission to make recommendations to the County Executive, County Council, and County departments and offices on matters involving discrimination in violation of Article 1, Title 9.

Subsection 3-5A-108(c) is new and authorizes the Commission to delegate to the Human Relations Officer the authority to conduct mediations or provide referrals for mediation services for complaints filed under Article 3, Title 5A.

Section 3-5A-109 is new and provides for the powers and duties of the Human Relations Officer, including: investigating internal complaints of discrimination by county employees and providing findings, conclusions, and recommendations to the Personnel Officer; investigating any other complaints of discrimination and providing findings, conclusions and recommendations to the Commission; accessing all internal records of the County necessary to complete any investigation; and testing any facility or organization for compliance with Article 3, Title 5A.

Section 3-5A-110 is new and requires annual reports by the Commission to the County Executive and the County Council summarizing its activities and including statistics on the number of complaints filed, race and ethnic characteristics of those who filed complaints, any programs or activities undertaken to advance human rights, and recommendations for legislative or administrative actions to further human rights.

Subsection 3-5A-202(a) is revised to authorize the Commission to hold hearings regarding alleged discrimination in violation of Article 1, Title 9 that is not initiated by the filing of a complaint.

Subsection 3-5A-203(a) is revised to specify the required content of any complaint filed with the Commission alleging discrimination in violation of Article 1, Title 9.

Subsection 3-5A-203(b) is revised to extend the time for filing a complaint to 300 days after the violation occurs or six months after discovery of the violation, which is later.

Subsection 3-5A-203(f) is new and authorizes a respondent to file an answer to the complaint with the Commission, with a copy to the complainant, within 30 days after the complaint is served upon the respondent.

Subsection 3-5A-203(g) is new and provides that a complaint filed with the Commission is preempted and voided if the complainant files a complaint based on the same facts with a federal or State agency with jurisdiction.

Subsection 3-5A-204(a) is revised authorize the Office of Equity and Human Rights to assist the Human Relations Officer in reviewing complaints for sufficiency, and to provide that any such review take place within 14 days of filing.

Subsection 3-5A-204(b) authorizes the Human Relations Officer to dismiss a complaint if, after consultation with the Office of Equity and Human Rights, the facts are found to be insufficient to establish discrimination.

Subsection 3-5A-204(d) is revised to refer to violations of Article 1, Title 9, rather than violations of anti-discrimination provisions regarding housing.

Section 3-5A-206 is new.

Subsection (a) authorizes the Human Relations Officer, with the assistance of the Office of Equity and Human Rights, to investigate any complaint not previously dismissed.

Subsection (b)(1) authorizes the Human Relations Officer to refer to the Commission any claim for discrimination if the facts alleged sustain the claim, and to forward to the Commission findings, conclusions and recommendations within 90 days after the filing of the complaint, with any answer filed by the respondent. The Commission is authorized to hold a hearing on any referred complaint.

Subsection (b)(2) allows the Human Relations Officer to extend the 90-day referral period for an additional 60 days upon notice to the Commission prior to the expiration of the 90 days.

Subsection 3-5A-207(d) is revised to refer to violations of Article 1, Title 9, rather than violations of anti-discrimination provisions regarding housing.

Subsection 3-5A-207(f) is new and provides that hearings will be conducted pursuant to rules adopted by the Commission and posted on its website.

Subsection 3-5A-208(a) is revised to refer to violations of Article 1, Title 9, rather than violations of anti-discrimination provisions regarding housing.

Subsections 3-5A-208(b)(1), (b)(1)(i), and (b)(1)(ii), are revised to refer to violations of Article 1, Title 9, rather than violations of anti-discrimination provisions regarding housing.

Subsection 3-5A-208(b)(1)(iii) is revised to provide that a violation of Subtitle 3 (public accommodations) or Subtitle 4 (employment) of Title 9 of Article 1 is punishable by a fine of up to \$5,000 per offense, as provided by State law. (*Local Gov. Art, § 10-202(d)*).

Subsection 3-5A-208(b)(1)(iv) is revised to provide that a violation of Subtitle 2 (housing) of Title 9 of Article 1 is punishable by a fine up to \$10,000 for a first offense, up to \$25,000 for a second offense within five years of a prior offense, and up to \$50,000 for a third or subsequent offense within seven years of a second offense, as provided by State and federal law. (*Local Gov. Art, § 10-202(c); 42 USC 3612(g)(3)*).

SECTION 4.

This section provides that the bill takes effect 45 days after it becomes law.

The Office of Law is available to answer any additional questions regarding this Bill.
Thank you.

cc: Honorable Steuart Pittman, County Executive
Christine Anderson, Chief Administrative Officer
Jeff Amoros, Chief of Staff
Ethan Hunt, Government Relations Officer
Chris Trumbauer, Budget Officer
Asha Smith, Director of Equity and Human Rights

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